

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAFAL LOJEWSKI et al., *on behalf of themselves and all others similarly situated,*

22 Civ. 10816 (PAE)

Plaintiffs,

-v-

ORDER

GROUP SOLAR USA, LLC et al.,

Defendants.

PAUL A. ENGELMAYER, District Judge:

On February 1, 2023, defendant Solar Mosaic LLC (“Mosaic”) filed a motion to (1) stay all claims brought by plaintiffs Smith Garcia and Danielle Garcia (collectively, the “Garcia plaintiffs”) against Mosaic pending arbitration, (2) compel the Garcia plaintiffs to arbitrate their claims against Mosaic, and (3) stay the Garcia plaintiffs’ claims against defendants Group Solar USA, LLC and Daniel Yomtobian Corp. d/b/a Solar Program pending arbitration of their claims with Mosaic. Dkts. 16, 17. The same day, Mosaic moved to dismiss the complaint under Rules 12(b)(6), 12(f), and 23(d)(1)(D) of the Federal Rules of Civil Procedure and strike plaintiffs’ class allegations against Mosaic. Dkts. 19, 20.

As to the motion to compel arbitration, the Court orders the Garcia plaintiffs to file a response to Mosaic’s motion no later than February 22, 2023. Mosaic’s reply, if any, shall be served by March 8, 2023.

As to the motion to dismiss, under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. Accordingly, it is hereby ORDERED that plaintiffs shall file any amended complaint by February 22, 2023. No further opportunities to amend will ordinarily be granted. If plaintiffs do

amend, by March 15, 2023, Mosaic shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiffs, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiffs shall serve any opposition to the motion to dismiss by February 22, 2023. Mosaic's reply, if any, shall be served by March 8, 2023. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

The Court will determine later, after receipt of plaintiffs' anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: February 2, 2023
New York, New York

¹ If Mosaic files a new motion to dismiss or relies on their previous motion, plaintiffs' opposition will be due 14 days thereafter, and Mosaic's reply, if any, will be due 14 days after that.